STATUS OF CLAIMS

We claim:

1) (Cancelled)

13) (Original) A method of protecting ocular neural tissue from damage caused by electromagnetic irradiation of the retina comprising delivering to a patient's ocular neural tissue an amount of a neuroprotectant compound effective to protect a plurality of ocular neurons from cell death as compared to ocular neuron cell death following such irradiation observed in the absence of the administration of said neuroprotectant.

14) (Original) The method of claim 13 wherein said electromagnetic irradiation is laser irradiation.

15) (Original) The method of claim 13 wherein said neuroprotectant compound is an alpha adrenergic agonist.

16) (Original) The method of claim 13 wherein said alpha adrenergic agonist is an alpha 2 selective agonist.

17) (Original) The method of claim 16 wherein said alpha 2 selective agonist is selected from the group consisting of brimonidine, clonidine and para-aminoclonidine.

18) (Original) The method of claim 17 wherein said compound is brimonidine.

19) (Original) The method of claim 13 wherein said alpha adrenergic receptor agonist is an alpha 2B and/or alpha 2C selective agonist.

20) (Original) The method of claim 19 wherein said alpha 2B and/or alpha 2C selective agonist is selected from the group consisting of AGN 960, AGN 795 and AGN 923.

21) (Original) The method of claim 20 in which the alpha 2B selective agonist is AGN 960.

22) (Original) The method of claim 20 in which the alpha 2B selective agonist is AGN 795.

23) (Original) The method of claim 20 in which the alpha 2B selective agonist is AGN 923.

24) (Original) The method of claim 13 wherein said neuroprotectant compound is administered at a time sufficiently before said electromagnetic irradiation to permit localization within ocular tissue prior to said treatment.

25) (Original) The method of claim 13 wherein said neuroprotectant compound is administered following said electromagnetic irradiation.

Claims 13-26 are presented for examination.

The response to the restriction requirement March 25, 2003 has been received and entered.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed invention is directed to the use of "a neuroprotectant compound effective to protect the plurality of ocular neurons from cell death". The specification discloses examples of structures of some compounds within the scope of what is claimed. However, there is no evidence that there is any per se structure/function relationship between the disclosed neuroprotectant compounds and any others that might be found using the claimed method. Structural identifying characteristics of group of neuroprotectant compounds are not disclosed. Therefore, the claimed invention is not supported by an adequate written description.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Fay whose telephone number is (703) 308-4604. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Z.F
September 20, 2003

ZOHREH FAY
PRIMARY EXAMINER
GROUP 1200

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claim1-12, drawn to a method of reducing or eliminating a decrease in a neurosensory retinal function using an alpha-receptor agonist, classified in class 514, subclass 385, 912.

II. Claims 13-25, drawn to a method of protecting ocular neural tissues using an alpha-adrenergic agonist, classified in class 514, subclass 385, 912.

The inventions are distinct, each from the other because of the following reasons:

The above-delineated inventions are independent and patentably distinct each from the other. Each of the above groups is directed to the treatment of totally different conditions. Each of the above groups id cable of supporting its own patent. The searches for the above inventions would not be co-extensive particularly, as to the literature search required. A reference which anticipated the invention of one of the above groups would not anticipate or make obvious the invention of the other group. Therefore, restriction for examination purpose is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Fay whose telephone number is (703) 308-4604. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

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March 23, 2003

ZOHREH FAY
PRIMARY EXAMINER
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